STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 28, 1999
v	No. 211122 Hillsdale Circuit Court
LORI ELIZABETH FERRI, Defendant-Appellant.	LC Nos. 21-7705, 21-7737, 21-7738, 21-7739, 21-7740, 21-7741, 21-7742, 21-7743, 21-7744

Before: Bandstra, P.J., and Markman and Meter, JJ.

PER CURIAM.

Defendant Lori E. Ferri was charged with nine counts of forgery, MCL 750.248; MSA 28.445, and uttering and publishing, MCL 750.249; MSA 28.446. Following a two-day jury trial, defendant was found guilty and sentenced to five years' probation. She appeals as of right. We affirm.

This appeal arises from a series of events which occurred in October 1996. In August and early September 1996, defendant worked for John Eugene Maxson. Defendant's boyfriend, James Stump, rented an apartment from Maxson which was located in the same building as Maxson's office. Both defendant and Stump had access to the office. Maxson had previously owned a business, Long's Auto Care, which had folded by the time defendant was hired. The only people authorized to draw checks on the Long's account were Nancy Maxson and Anna Long. The checking account was closed in 1995; however, James Maxson retained the records and unused checks. At some point, the records and checks for Long's disappeared.

On October 20 and October 21, 1996, a total of six checks for Long's Auto Care were presented as payroll checks at a Kroger's grocery store in Hillsdale; defendant was the payee, with the name Jake Sweet in the endorsement line. The store had a policy of cashing payroll checks if the endorser presented a driver's license and if the signature on the driver's license matched that of the payee and the picture on the license matched the person presenting the check. Only one of the three

Kroger's employees who testified could positively identify defendant; however, all three testified as to their verification procedure before they cashed a check.

In addition to the checks cashed at Kroger's, three checks drawn on the Long's Auto Care account were cashed at a local Wal-Mart; again, defendant's name appeared as payee. One of the Wal-Mart managers, Sue Ellen Stoddard, identified defendant as the person who presented one of the checks to her. Both Stoddard and Mary Mosley, a Wal-Mart manager who had approved another check presented by defendant, testified as to their verification procedure before they would approve a check for cashing.

Lance Benzing, a detective with the Hillsdale County Sheriff's Department, arrested defendant in the course of his investigation of the forgeries. Defendant denied writing the checks, claiming that Maxson's office manager, Deborah Lapham, had forged the checks. She agreed to submit writing samples and fingerprints for analysis. Donald Minton, a fingerprint examiner with the state police, identified defendant's fingerprints on four of the checks. Michelle Dunkerley of the state police compared defendant's handwriting samples to the handwriting on the checks; she found with "absolute certainty" that defendant had written two of the checks, a "high probability" that she had written a third check, and that the remaining checks "may" have been written in whole or in part by defendant. Harris Edwards of the state police interviewed defendant. Defendant initially denied to Edwards that she knew anything about the checks, but later said that she would be willing to repay the money. Defendant's offer was not made in response to any statement from Edwards.

Defendant testified on her own behalf, denying that she wrote or presented the checks from Long's Auto Care. She testified that she left her wallet at work on her last day of employment with Maxson, and that the wallet contained her driver's license. When she called to see if she could retrieve her wallet, Lapham refused to give it to her, saying that she owed the business $300.

Defendant contends that the court improperly admitted evidence of her offer to repay the money, obtained in the course of a polygraph examination with Edwards. We disagree. Defendant did not object to any portion of Edwards' testimony; as a result, review of defendant's claim is precluded absent manifest injustice. *People v Calabro*, 166 Mich App 389, 391; 419 NW2d 791 (1988). No manifest injustice would result in this case, in our judgment. First, there is nothing in Edwards' testimony that indicates that anything other than a standard interview took place. Although defendant referred in her own testimony to wanting to take a polygraph examination, and alternatively that she was "tricked" into taking a polygraph examination, she also said that she was not, in fact, polygraphed when she spoke to Edwards because she was pregnant. Further, Edwards testified that defendant's offer to repay the money was an unsolicited statement and not in response to a question. *People v Fisher*, 166 Mich App 699, 709-10; 420 NW2d 858 (1988). As far as the record discloses, the statement made by defendant was an unsolicited statement made in the course of a noncustodial interview, and not in the course of a polygraph examination. There was no error in admitting this evidence.

In a related claim, defendant argues that counsel was ineffective for failing to object to Edwards' testimony about her admission to the state police. However, counsel cannot be found ineffective for failing to make meritless objections. *People v Torres*, 222 Mich App 411, 425; 564 NW2d 149

(1997). Defendant also argues that counsel was ineffective for failing to call Julian Orr as a witness. We disagree. Defendant did not obtain a hearing to make a testimonial record to support her claim. See *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973). As a result, review of her claim is foreclosed unless the record contains sufficient detail to support defendant's position. *People v Dixon*, 217 Mich App 400, 408; 552 NW2d 663 (1997). Although the parties agree in their briefs that Orr existed, there is nothing in the record to support this. This Court's review is limited to the record of the trial court. *People v Warren*, 228 Mich App 336, 356; 578 NW2d 692 (1998). Even if we accept that Orr exists and that he would have been available to present testimony that could conceivably have contradicted the prosecutor's witnesses, decisions concerning whether to call witnesses are classic matters of trial strategy. *People v Bass (On Rehearing)*, 223 Mich App 241, 253; 565 NW2d 897 (1997). To overcome the presumption that counsel was exercising sound trial strategy, defendant must show that counsel's failure to prepare for trial resulted in counsel's failure to present valuable evidence that would have substantially benefited the defendant. *People v Caballero*, 184 Mich App 636, 640; 459 NW2d 80 (1990). Defendant has made utterly no such showing; as a result, we cannot conclude that she was deprived of effective assistance of counsel.

Defendant finally asserts that she was assigned a condition of probation that violated her "right of association" with Stump. The court assigned a condition of defendant's probation that she not associate with anyone with a criminal record, including Stump. However, the court limited this condition with respect to Stump, saying that defendant was not to associate with him "unless you marry him." Defendant, in fact, has since married Stump. Where a subsequent event renders it impossible for this Court to fashion a remedy, an issue becomes moot. See *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994). Defendant contends that this issue is not moot because she and Stump were married at a different time than they would have chosen but for the condition. However, there is no effective remedy that this Court may now fashion for defendant's complaint. The issue is moot and beyond this Court's review.

Affirmed.

/s/ Richard A. Bandstra
/s/ Stephen J. Markman
/s/ Patrick M. Meter